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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,787	12/26/2001	Robert H. China	679.0038USU	7192

7590

06/20/2003

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EXAMINER

TRAVERS, RUSSELL S

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

*Silicone elastomer  
JIS K 6253 Critical to Practice Invention as claimed - 112 P1*

# Office Action Summary

Application No.  
10/032,787

Applicant(s)  
China et al

Examiner  
R.S. Travers J.D., Ph.D.

Art Unit  
1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-28 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-25, drawn to various pressed powder cosmetic composition containing silicone elastomer particulates.

II. Claims 26-27, drawn to a method for making various pressed powder cosmetic composition containing silicone elastomer particulates.

III. Claims 28, drawn to a method for imparting "springiness" to various pressed powder cosmetic composition containing silicone elastomer particulates.

Claims contained in Groups I, II and III are directed to compositions of matter, methods of making products, and methods for providing physical characteristics to compositions of matter employing a plurality of patentably distinct species. Applicant is required under 35 U.S.C. § 121 to elect a single inventive group even though this requirement is traversed.

Groups I-III are directed to a plurality of distinct inventive species. Applicants must elect one of groups I-III for examination on the merits, even though this requirement is traversed.

The presented inventions are only linked by the presented specification; with each invention requiring separate, distinct search, and consideration. The above delineated inventions differ as to compositions of matter, methods of making products, and methods for providing physical characteristics to compositions of matter; and are

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independent and patentably distinct each from the other. The grouped inventions differ as to their intended use, a reference which would anticipate the invention of one group would neither anticipate, nor make obvious the inventions in the other groups. The searches are not co-inclusive as indicated by the diverse nature of the subject matter. One skilled in the art would readily practice the invention of one of the above groups with out infringing and or practicing the invention of another group. The subject matter is unique and has acquired a separate status in the art and is fully capable of supporting separate patents. For the foregoing reasons restriction is proper for examination purposes.

The grouped inventions are patentably distinct, a reference which would anticipate, or make obvious, any invention from groups I-III would not necessarily obviate, or anticipate, the inventions in any other group. The searches are not co-inclusive as indicated by the diverse nature of the subject matter, thus, would represent an undue burden on Examiner. One skilled in the art would readily practice the invention of one of the above groups with out infringing and or practicing the invention of another group. The subject matter is unique and has acquired a separate status in the art and is fully capable of supporting separate patents. For the foregoing reasons restriction is proper for examination purposes.

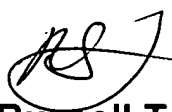
Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variations or clearly admit on the record that this is the case. In either instance, if Examiner finds one of the inventions unpatentable over the prior art, the evidence may be used in a rejection under 35 USC 103 of the other invention.

Applicant is reminded that upon the cancellation of the claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48 (b) if one or more of the currently named inventors is no longer an inventor if at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 C.F.R. 1.48 (b) and by the fee required under 37 C.F.R. 1.17 (h).

Any inquiry concerning this communication should be directed to Russell Travers at telephone number (703) 308-4603.

  
**Russell Travers**  
**Primary Examiner**  
**Art Unit 1617**